

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Atlantic Marina Holdings, LLC and Miller Development, LLC,)	Civil Action No. 2:10-cv-2016-PMD
)	
Plaintiffs,)	
)	
vs.)	<u>DEFENDANT'S RULE 26.01</u>
)	<u>DISCLOSURES</u>
Madison Capital Company, LLC,)	
)	
Defendant.)	
)	

Pursuant to Local Rule 26.01, Defendant Madison Capital Company, LLC ("Madison"), answers as follows:

(A) State the full name, address and telephone number of all persons or legal entities who may have a subrogation interest in each claim and state the basis and extent of said interest.

ANSWER: None known at this time.

(B) As to each claim, state whether it should be tried jury or non-jury and why.

ANSWER: Non-jury because the applicable contract contains a jury waiver provision.

(C) State whether the party submitting these responses is a publicly owned company and separately identify: (1) each publicly owned company of which it is a parent, subsidiary, partner, or affiliate; (2) each publicly owned company which owns ten percent or more of the outstanding shares or other indicia of ownership of the party; and (3) each publicly owned company in which the party owns ten percent or more of the outstanding shares.

ANSWER: Defendant is not a publicly owned company. It further answers that: (1) there are no publicly owned companies of which it is a parent, subsidiary, partner or affiliate; (2)

no publicly owned company directly owns ten percent or more of the outstanding shares of Defendant; and (3) Defendant does not own ten percent or more of the outstanding shares of any publicly owned companies.

(D) State the basis for asserting the claim in the division in which it was filed (or the basis of any challenge to the appropriateness of the division).

ANSWER: This case was removed from the Charleston County Court of Common Pleas, and, therefore, the United States District Court for the District of South Carolina, Charleston Division is the appropriate division per 28 U.S.C. § 1441.

(E) Is this action related in whole or in part to any other matter filed in this District, whether civil or criminal? If so, provide: (1) a short caption and the full case number of the related action; (2) an explanation of how the matters are related; and (3) a statement of the status of the related action. Counsel should disclose any cases which may be related regardless of whether they are still pending. Whether cases are related such that they should be assigned to a single judge will be determined by the Clerk of Court based on a determination of whether the cases: arise from the same or identical transactions, happenings or events; involve the identical parties or property; or for any other reason would entail substantial duplication of labor if heard by different judges.

ANSWER: Yes, this action is related to Madison Capital Company, LLC v. Joseph H. Miller, IV, Civil Action No. 2:08-cv-1563-PMD. The actions involve the same dispute and otherwise arise out of the same operative facts. The actions will involve the same witnesses and evidence. The District Court granted Madison summary judgment in September 2009 in Madison Capital Company, LLC, and the defendant in that case, Joseph H. Miller, IV, is currently appealing that decision.

(F) If the defendant is improperly identified, give the proper identification and state whether counsel will accept service of an amended summons and pleading reflecting the correct identification.

ANSWER: Defendant was properly identified.

(G) If you contend that some other person or legal entity is, in whole or in part, liable to you or the party asserting a claim against you in this matter, identify such person or entity and describe the basis of said liability.

ANSWER: Defendant is not aware of any such person or entity at this time.

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